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SUPPLEMENT TO JOINT CASE

MANAGEMENT STATEMENT (C07-3950 JF)

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED FARM WORKERS; SEA MAR)	Civ. No. C07-3950 JF
COMMUNITY HEALTH CENTER;)	
PINEROS Y CAMPESINOS UNIDOS DEL)	
NOROESTE; BEYOND PESTICIDES;)	
FRENTE INDIGENA de)	
ORGANIZACIONES BINACIONALES;)	SUPPLEMENT TO JOINT CASE
FARM LABOR ORGANIZING)	MANAGEMENT STATEMENT
COMMITTEE, AFL-CIO; TEAMSTERS)	
LOCAL 890; PESTICIDE ACTION)	
NETWORK NORTH AMERICA; MARTHA)	
RODRIGUEZ; and SILVINA CANEZ,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ADMINISTRATOR, U.S.)	
ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Defendant,)	
)	
and)	
)	
DOW AGROSCIENCES LLC,)	
)	
Intervenor-Defendant.)	

1. Summary Judgment Schedule

On November 7, 2007, plaintiffs United Farm Workers et al. (“UFW”) and defendant Administrator, U.S. Environmental Protection Agency (“EPA”) submitted a Joint Case Management Statement in accordance with this Court’s standing orders. As part of that Joint Case Management Statement, plaintiffs and defendant proposed a schedule for filing the certified index to the administrative record and briefing summary judgment motions. Since that time, counsel for plaintiffs and defendant have been engaged in a good faith effort to resolve this litigation through settlement, and discussions are moving forward. To date, intervenor Dow

SUPPLEMENT TO JOINT CASE
MANAGEMENT STATEMENT (C07-3950 JF) -1-

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1 AgroSciences LLC ("DAS") has not participated in the settlement discussions. DAS has asked
 2 plaintiffs and defendant to include intervenor in those discussions. EPA and plaintiffs oppose
 3 DAS' participation in settlement discussions at this time.

4 In order to allow the settlement discussions to proceed in the most efficient manner,
 5 plaintiffs and defendant revise the proposed schedule submitted to the Court as follows:

6 May 15, 2008 EPA will file with the Court and serve on plaintiffs a certified
 7 index to the administrative records and an agreed-upon extract of
 the records.

8 June 30, 2008 Plaintiffs' Motion for Summary Judgment due.

9 August 29, 2008 Defendant's and Intervenor's Oppositions and Cross-Motions due.

10 September 26, 2008 Plaintiffs' Reply and Opposition due.

11 Defendant continues to reserve its right to move for leave to file a reply on its cross-motion if
 12 necessary to respond to new issues raised in plaintiffs' opposition, if any.

13 DAS agrees with the above revisions to the proposed briefing schedule provided the issue
 14 of this Court's jurisdiction under FIFRA is argued prior to the date plaintiffs' motion for
 15 summary judgment is due. DAS asserts that it should be permitted to file a reply on its cross-
 16 motion as of right thirty days after plaintiffs' reply is due. In the event the Court disagrees with
 17 this position, DAS also reserves its right to move for leave to file a reply on its cross-motion if
 18 necessary to respond to new issues raised in plaintiffs' opposition, if any.

19 2. Intervenor's Motion to Dismiss

20 This Court granted DAS' motion to intervene on Feb. 1, 2008, after the initial joint case
 21 management statement was submitted. On March 13, 2008, DAS filed a motion to dismiss and
 22 set that motion for hearing on May 9, 2008. DAS' motion to dismiss challenges this Court's
 23 jurisdiction under FIFRA and plaintiffs' standing.

1 Plaintiffs and intervenor have conferred on the scheduling of DAS' motion to dismiss and
 2 agree that briefing on the issues raised in the motion may proceed on different schedules.
 3 Specifically, plaintiffs and DAS have agreed to stay addressing the issue of plaintiffs' standing
 4 until DAS' cross-motion for summary judgment is filed. This will allow time for the
 5 administrative record to be filed and for plaintiffs to prepare and submit further declarations in
 6 support of their standing. Plaintiffs and DAS also have agreed that the threshold issue of this
 7 Court's jurisdiction under FIFRA can be resolved according to the current schedule for DAS'
 8 motion to dismiss, with plaintiffs' opposition due April 18, 2008; intervenor's reply due April
 9 25, 2008; and the hearing held on May 9. Plaintiffs and intervenor believe that their proposal of
 10 different briefing schedules for the issues raised in DAS' motion to dismiss will best serve the
 11 interests of efficiency and judicial economy.

12 EPA takes no position on the scheduling of intervenor's motion to dismiss.

13 Respectfully submitted this 19th day of March, 2008.

14
 15 /s/ Kristen L. Boyles

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CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington.

On March 19, 2008, I served a true and correct copy of the following documents on the parties listed below:

1. Supplement to Joint Case Management Statement.

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Attorney for Defendant

- ☐ via facsimile
- ☐ via overnight courier
- ☐ via certified mail
- ☐ via first-class U.S. mail
- ☐ via hand delivery
- ☒ via electronic service by Clerk

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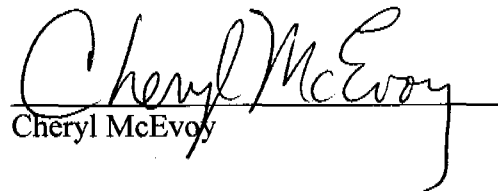
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☐ via hand delivery
☒ via electronic service by Clerk

8 I, Cheryl McEvoy, declare under penalty of perjury that the foregoing is true and correct.

9 Executed on this 19th day of March, 2008, at Seattle, Washington.

10
11 
12 Cheryl McEvoy